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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,728	09/19/2003	Gary Filice	EAST-002	5273
7590	09/14/2005		EXAMINER	
OLSON & HIERL, LTD.			CHAMBERS, MICHAEL S	
36th Floor 20 North Wacker Drive Chicago, IL 60606			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8P

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/664,728	FILICE ET AL.	
	Examiner	Art Unit	
	Mike Chambers	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 August 2005.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 4-9, 12-17 and 19-22 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 10, 11, 18 and 23-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/19.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date, \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of claims 1-3,10,11, 18 and 23-26 is acknowledged. Applicant's primary argument is that all groups relate directly to the ball guide invention. As noted in the restriction requirement, the applicant could have declare these species are merely obvious variations of the same invention. The applicant has not stated this, therefore the applicant's argument is not found persuasive. This restriction is made final. Claims 4-9,12-17, and 19-22 are withdrawn from further consideration.

### ***Information Disclosure Statement***

The information disclosure statement filed 9/19/03 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The US patents have been considered but the Other documents submitted have not been considered. They are of such poor quality, they provide no usable information. Examples are shown below





***Claim Rejections - 35 USC § 102***

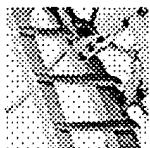
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

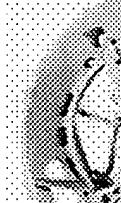
- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11,18,23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by DeBeer (pg 1 of webpage). DeBeer discloses a frame having an upper and lower edges and an interior face there between and a plurality of elongate ball guide fingers spaced along the interior face of the frame and extending between the upper and lower edges in a directional relationship generally opposite thereto (pg 1).

As to claim 2 : DeBeer discloses fingers protrude unitarily outwardly from the interior face of the frame (pg 1)



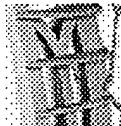
As to claim 3 : DeBeer discloses a shoulder (pg 1).



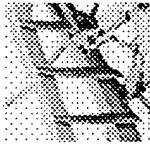
As to claim 11 : DeBeer discloses fingers spaced along the interior frame (pg 1).

As to claim 18: See claim 1 rejection (pg 1).

As to claim 23 : DeBeer discloses fingers that protrude unitarily outwardly from the interior face of the frame (pg 1).



As to claim 24 : DeBeer discloses fingers of different lengths (pg 1).



Also,

Claims 1-2, 11, 18 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrow (6066056). Morrow discloses a frame having an upper and lower edges and an interior face there between and a plurality of elongate ball guide fingers (60) spaced along the interior face of the frame and extending between the upper and lower edges in a directional relationship generally opposite thereto (fig 1).

As to claim 2 : Morrow discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 1)

As to claim 11 : Morrow discloses fingers spaced along the interior frame (fig 1).

As to claim 18: See claim 1 rejection.

As to claim 23 : Morrow discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 1).

Also,

Claims 1-2, 10,11, 18, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lockwood (2710753). Lockwood discloses a frame having an upper and lower edges (23,55) and an interior face there between and a plurality of elongate ball guide fingers (61) spaced along the interior face of the frame and extending between the upper and lower edges in a directional relationship generally opposite thereto (fig 1).

As to claim 2 : Lockwood discloses fingers (61) protrude unitarily outwardly from the interior face of the frame (fig 1)

As to claim 3: Lockwood discloses a shoulder (fig 1, item 55).

As to claim 10: Lockwood discloses fingers along a backstop (fig 3, item 66).

As to claim 11: Lockwood discloses fingers spaced along the interior frame (fig 1).

As to claim 18: See claim 1 rejection.

As to claim 23 : Lockwood discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 1).

As to claim 24 : Lockwood discloses fingers of different lengths (pg 1).

Also,

Claims 1-2, 11, 18 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Naumburg (D318509). Naumburg discloses a frame having an upper and lower edges and an interior face therebetween and a plurality of elongate ball guide fingers (ball stop) spaced along the interior face of the frame and extending between the upper and lower edges in a directional relationship generally opposite thereto (fig 1).

As to claim 2: Naumburg discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 1)

As to claim 11:Naumburg discloses fingers spaced along the interior frame (fig 1).

As to claim 18: See claim 1 rejection.

As to claim 23: Naumburg discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 1)

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using the fingers on the backstop. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to have placed the fingers anywhere on the interior of the lacrosse head based on cost, marketing and design considerations.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using fingers that increase progressively and then decrease progressively in length. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to have selected an appropriate slope based on cost and design considerations.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using a modified slope for the fingers. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to have selected an appropriate slope based on cost and design considerations.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2710753\*D318509\*6066056\*debeer webpage

Michael Chambers  
Examiner  
Art Unit 3711

August 22, 2005



GREGORY VIDOVICH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700